

## **REMARKS**

Applicant would initially like to thank the Examiner for a thorough review of the above-referenced application. Applicant would also like to thank the Examiner for pointing out the minor informal error of an incorrect claim label of Claim 24, which has been corrected in the present Amendment.

Claims 1-3, 5-12, 14-21, and 23-27 are currently pending. Claims 4, 13 and 22 were previously cancelled. Applicant has amended Claims 1-3, 5-12, 14, 16-21, 23 and 25-27 to clarify the features which Applicant believes patentably distinguish the present invention over the cited prior art. Reconsideration and withdrawal of the rejections and allowance of these claims is respectfully requested in light of the Amendments in Remarks presented herein.

### **I. Office Action Rejections**

Claim 23 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

Claims 1, 4-5, 7, 10, 13-14, 16, 19, 22-23 and 25 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent Application Publication Number 2001/0039514 to Barenbaum et al. (“Barenbaum”). Claims 2-3, 6, 8-9, 11-12, 15, 17-18, 20-21, 24 and 26-27 were rejected under 35 U.S.C. § 103 as being unpatentable over Barenbaum, where Barenbaum was used as the sole reference in the Section 103 rejection.

### **II. Claim 23 Recites Patentable Subject Matter Under 35 U.S.C. §112**

Claim 23 was rejected under 35 U.S.C. § 112 for reciting “GUI” as being an acronym that is undefined in the claims. Applicant has amended Claim 9 to clarify the “GUI” acronym to be a “graphical user interface,” which overcomes the issues presented in the Office Action. Applicant believes such amendment corrects the issue presented by the Section 112 rejection, and reconsideration and withdrawal of the 35 U.S.C. § 112 rejection of Claim 23 is respectfully requested.

### **III. The Rejections of the Claims Under 35 U.S.C. §§ 102 and 103 Should Be Withdrawn**

Applicant submits that independent Claims 1, 10 and 19, as clarified, patentably distinguish over Barenbaum since Barenbaum does not teach or suggest each and every limitation of these claims.

As described in paragraph [0018] of Barenbaum, Barenbaum is directed to system and method for alerting potential customers of the availability of retail deals for events, services or products *that have an expiration date or are time-sensitive*. The invention of Barenbaum enables retailers to manage excess, unfulfilled capacity by inducing purchasers to satisfy the excess capacity, such as by offering incentives to purchase *unused* seats or *perishable* goods. For instance, Barenbaum is applicable to selling last minute seats at movie theatres/studios, sports teams, live entertainment venues and other events that naturally expire with the occurrence of the event itself. By way of additional examples, Barenbaum is applicable to solving the following problems: a grocery store that may have an over-stocked inventory of strawberries that are ripe but will be worthless in matter of a few days; a bar may be experiencing a slow night and may create an event to fill up the bar's capacity and generate more revenue; and a women's clothing store may be approaching the end of the summer season with an abundant supply of summer dresses and sandals. By alerting potential customers of special, last-minute deals at various stores, Barenbaum's invention allows stores to move goods and services that would otherwise not be sold and, thus, would otherwise result in lost revenue.

In contrast, the present invention describes a method and means by which a mobile phone can participate in a promotional contest offer that is sponsored by an interested party. Interested parties can include, but are not limited to, mobile phone handset makers and wireless carriers. The sponsor creates a promotional campaign and defines its parameters using promotional offer code (POC) data. The POC data is then received and/or pre-provisioned into the mobile phone either at the time of manufacture or via an over-the-air (OTA) process that is transparent to the mobile phone user. The sponsor then advertises the promotional campaign in any number of ways including, but not limited to, direct mail, television commercial, radio commercial, Internet advertisements, e-mail, SMS messaging, or MMS messaging. If a mobile phone user becomes aware of the promotional campaign and wishes to participate, he navigates his mobile phone menu structure to a "promotions" menu and inputs a POC that was included in the sponsor's

advertisements. The mobile phone then links the input POC to the pre-provisioned POC data, such as by comparing the POC with the POC data to determine if there is a match for identifying the promotional offer. Another function in the mobile phone then constructs a promotional offer entry (POE) that conforms to the parameters set out in the pre-provisioned POC data. The POE format can be an SMS, MMS, e-mail message, or other mode. The POE is then transmitted to the sponsor. The sponsor reviews all valid entries and chooses one or more winners. The sponsor can then broadcasts a status message to all entrants to inform them whether they won anything from the promotion.

Independent Claims 1, 10 and 19 recite “loading promotional offer data,” “receiving input of a promotional offer code into the mobile phone;” “comparing the promotional offer code with the promotional offer code data,” “constructing a promotional offer entry in response to promotional offer code data matching the promotional offer code, the promotional offer entry indicating to a sponsor that a user of the mobile phone desires to participate in the promotional offer,” and “transmitting the promotional offer entry” to a sponsor. Barenbaum does not teach or suggest any of these recitations, either individually or collectively. In this regard, Barenbaum does not teach or suggest “comparing the inputted promotional offer code with promotional offer code data” that was received or loaded into memory of the mobile phone. Indeed, Barenbaum does not perform any comparing steps since Barenbaum is directed to providing last-minute deals or specials to consumers.

Additionally, Barenbaum also does not disclose “constructing a promotional offer entry in response to promotional offer code data matching the promotional offer code, the promotional offer entry indicating to a sponsor that a user of the mobile phone desires to participate in the promotional offer,” and/or “transmitting the promotional offer entry” to a sponsor, as recited in independent Claims 1, 10 and 19. There is no teaching or suggestion in Barenbaum of transmitting data to the sponsor, much less transmitting to the sponsor a “promotional offer entry indicating to a sponsor that a user of the mobile phone desires to participate in the promotional offer,” as recited in independent Claims 1, 10 and 19. This is especially true because Barenbaum does not deal with contests at all – only one-way transmission of last-minute deals to potential consumers.

In light of the above, it is therefore submitted that the cited art of record does not teach or suggest, either singly or in combination, each and every limitation of independent Claims 1, 10 and 19, as well of the claims dependent therefrom. Therefore, independent Claims 1, 10 and 19, as well of the claims dependent therefrom, are submitted to be patentable over Barenbaum and reconsideration and withdrawal of the rejections of these claims is respectfully solicited.

\* \* \* \* \*

### **CONCLUSION**

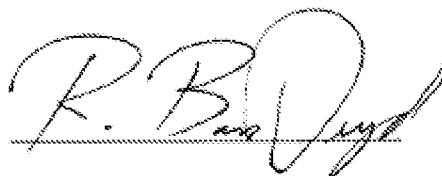
In view of the foregoing Amendments and Remarks, Applicant respectfully submits that all claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Gartland is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365.

Respectfully submitted,

Date: 10/7/10

By:

A handwritten signature in black ink, appearing to read "R. Brian Drozd", written over a horizontal line.

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